



Department of Justice

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PRESS RELEASE

Albany, New York —United States Attorney Richard S. Hartunian and John P. Melville, Acting Superintendent, New York State Police, announced that KELLY BURKE, age 42, of Granville, New York, was sentenced by the Honorable David N. Hurd in United States District Court in Utica on his guilty plea to count one of an Indictment charging him with the receipt of child pornography. BURKE was sentenced to sixty-six (66) months of imprisonment and supervised release for life. He was also ordered to: (1) have no unsupervised contact with minors; and (2) register with the New York State Sex Offender Registry Program. The Court also ordered that a computer be forfeited to the United States.

BURKE pled guilty on February 25, 2010. In connection with his plea, BURKE admitted the following in a written plea agreement and during his plea proceeding:

Between July, 2004 and July 22, 2009, BURKE, while at his friends' houses or at facilities providing free wireless internet services, all located within the Northern District of New York, used a Dell Inspiron 1545 laptop computer, serial no. C04J7H1, to access the internet. While on the internet BURKE downloaded and installed various file sharing programs, including "Frostwire" and "Limewire," onto said computer. Frostwire and Limewire are known as Peer-to-Peer file sharing programs which allow internet users to trade and receive digital files from other users of computers with the same file sharing programs.

While using the Frostwire or Limewire programs, BURKE obtained several electronic files containing still images and videos depicting minors engaged in sexually explicit conduct. BURKE then downloaded such still images and videos to the aforementioned computer wherein he would ultimately save the electronic files to various electronic folders and sub-folders.

On July 26, 2009 investigators executed a search warrant at the Defendant's residence. The aforementioned Dell laptop computer was seized and searched. Forensic examination of the computer, which belonged to the Defendant, was

subsequently conducted. Twelve movie files and one still image which depict minors engaged in sexually explicit conduct, as those terms and phrases are defined in Title 18, United States Code, Section 2256(2), were recovered from said computer. Said images depict individuals under the age of 18 engaged in, among other things, vaginal sex, oral sex, bondage, masturbation and the lascivious exhibition of the genitals and pubic area. All of the images recovered depict actual, as opposed to computer generated, images of minors engaged in such conduct. A number of these images depict prepubescent minors engaged in such conduct.

BURKE knowingly and willfully received and possessed the aforesaid images. He also received, downloaded and possessed these images knowing that they depict minors engaged in sexually explicit conduct. All of these images had either been transported in interstate or foreign commerce or were produced using materials that had been mailed, shipped or transported in interstate or foreign commerce. BURKE obtained such images from, among other places, individuals and websites located outside the State of New York. Moreover, such images, and the actual computer used to obtain and download these depictions, were transported in interstate and foreign commerce and were produced using materials that had been mailed, or shipped or transported in interstate and foreign commerce.

On July 26, 2009, BURKE was interviewed by law enforcement officials. During this interview BURKE admitted to owning and using the aforementioned Dell laptop computer. BURKE also admitted that he used the Frostwire and Limewire file sharing programs to obtain and download files, from the internet, which contained images of minors engaged in sexually explicit conduct.

The case was investigated by the New York State Police and the Granville, New York Police Department.

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